

## Commodity Futures Trading Commission

## § 41.44

(27) *Related transaction*, with respect to a position or transaction in a security future, means:

(i) Any transaction that creates, eliminates, increases or reduces an offsetting position involving a security future and a related position, as provided in § 41.45(b)(2) of this subpart; or

(ii) Any deposit or withdrawal of margin for the security future or a related position, except as provided in § 41.47(b) of this subpart.

(28) *Securities account* shall have the meaning provided in § 1.3(wv) of this chapter.

(29) *Security futures intermediary* means any creditor as defined in Regulation T with respect to its financial relations with any person involving security futures, including:

(i) Any futures commission merchant;

(ii) Any partner, officer, director, or branch manager (or person occupying a similar status or performing similar functions) of a futures commission merchant;

(iii) Any person directly or indirectly controlling, controlled by, or under common control with (except for business entities controlling or under common control with) a futures commission merchant; and

(iv) Any employee of a futures commission merchant (except an employee whose functions are solely clerical or ministerial).

(30) *Self-regulatory authority* means a national securities exchange registered under section 6 of the Exchange Act, a national securities association registered under section 15A of the Exchange Act, a contract market registered under section 5 of the Act or section 5f of the Act, or a derivatives transaction execution facility registered under section 5a of the Act.

(31) *Special margin requirement* shall have the meaning provided in § 41.46(e)(1)(ii) of this subpart.

(32) *Variation settlement* means any credit or debit to a customer account, made on a daily or intraday basis, for the purpose of marking to market a security future or any other contract that is:

(i) Issued by a clearing agency that is registered under section 17A of the Exchange Act or cleared and guaranteed

by a derivatives clearing organization that is registered under section 5b of the Act; and

(ii) Traded on or subject to the rules of a self-regulatory authority.

(b) Terms used in this Regulation (Subpart E, §§ 41.42 through 41.49) and not otherwise defined in this section shall have the meaning set forth in the margin rules applicable to the account.

(c) Terms used in this Regulation (Subpart E, §§ 41.42 through 41.49) and not otherwise defined in this section or in the margin rules applicable to the account shall have the meaning set forth in the Exchange Act and the Act; if the definitions of a term in the Exchange Act and the Act are inconsistent as applied in particular circumstances, such term shall have the meaning set forth in rules, regulations, or interpretations jointly promulgated by the SEC and the Commission.

### § 41.44 General provisions.

(a) *Applicable margin rules*. Except to the extent inconsistent with this Regulation (Subpart E, §§ 41.42 through 41.49):

(1) A security futures intermediary that carries a security future on behalf of a customer in a securities account shall record and conduct all financial relations with respect to such security future and related positions in accordance with Regulation T and the margin rules of the self-regulatory authorities of which the security futures intermediary is a member.

(2) A security futures intermediary that carries a security future on behalf of a customer in a futures account shall record and conduct all financial relations with respect to such security future and related positions in accordance with the margin rules of the self-regulatory authorities of which the security futures intermediary is a member.

(b) *Separation and consolidation of accounts*. (1) The requirements for security futures and related positions in one account may not be met by considering items in any other account, except as permitted or required under paragraph (b)(2) of this section or applicable margin rules. If withdrawals of cash, securities or other assets deposited as margin are permitted under this

Regulation (Subpart E, §§ 41.42 through 41.49), bookkeeping entries shall be made when such cash, securities, or assets are used for purposes of meeting requirements in another account.

(2) Notwithstanding paragraph (b)(1) of this section, the security futures intermediary shall consider all futures accounts in which security futures and related positions are held that are within the same regulatory classification or account type and are owned by the same customer to be a single account for purposes of this Regulation (Subpart E, §§ 41.42 through 41.49). The security futures intermediary may combine such accounts with other futures accounts that are within the same regulatory classification or account type and are owned by the same customer for purposes of computing a customer's overall margin requirement, as permitted or required by applicable margin rules.

(c) *Accounts of partners.* If a partner of the security futures intermediary has an account with the security futures intermediary in which security futures or related positions are held, the security futures intermediary shall disregard the partner's financial relations with the firm (as shown in the partner's capital and ordinary drawing accounts) in calculating the margin or equity of any such account.

(d) *Contribution to joint venture.* If an account in which security futures or related positions are held is the account of a joint venture in which the security futures intermediary participates, any interest of the security futures intermediary in the joint account in excess of the interest which the security futures intermediary would have on the basis of its right to share in the profits shall be margined in accordance with this Regulation (Subpart E, §§ 41.42 through 41.49).

(e) *Extensions of credit.* (1) No security futures intermediary may extend or maintain credit to or for any customer for the purpose of evading or circumventing any requirement under this Regulation (Subpart E, §§ 41.42 through 41.49).

(2) A security futures intermediary may arrange for the extension or maintenance of credit to or for any customer by any person, provided that the

security futures intermediary does not willfully arrange credit that would constitute a violation of Regulation T, U or X of the Board of Governors of the Federal Reserve System (12 CFR parts 220, 221, and 224) by such person.

(f) *Change in exempted person status.* Once a person ceases to qualify as an exempted person, it shall notify the security futures intermediary of this fact before entering into any new security futures transaction or related transaction that would require additional margin to be deposited under this Regulation (Subpart E, §§ 41.42 through 41.49). Financial relations with respect to any such transactions shall be subject to the provisions of this Regulation (Subpart E, §§ 41.42 through 41.49).

#### § 41.45 Required margin.

(a) *Applicability.* Each security futures intermediary shall determine the required margin for the security futures and related positions held on behalf of a customer in a securities account or futures account as set forth in this section.

(b) *Required margin—(1) General rule.* The required margin for each long or short position in a security future shall be twenty (20) percent of the current market value of such security future.

(2) *Offsetting positions.* Notwithstanding the margin levels specified in paragraph (b)(1) of this section, a self-regulatory authority may set the required initial or maintenance margin level for an offsetting position involving security futures and related positions at a level lower than the level that would be required under paragraph (b)(1) of this section if such positions were margined separately, pursuant to rules that meet the criteria set forth in section 7(c)(2)(B) of the Exchange Act and are effective in accordance with section 19(b)(2) of the Exchange Act and, as applicable, section 5c(c) of the Act.

(c) *Procedures for certain margin level adjustments.* An exchange registered under section 6(g) of the Exchange Act, or a national securities association registered under section 15A(k) of the Exchange Act, may raise or lower the required margin level for a security future to a level not lower than that specified in this section, in accordance